

KAYE SCHOLER LLP

EX PARTE OR LATE FILED

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January 8, 2003

ORIGINAL

Marlene H Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554
ATTN: David Brown

RECEIVED

JAN - 8 2003

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Docket No. MB 02-235
Ex Parte Presentation. DA 02-2082

Dear Ms. Dortch:

On January 7, 2003, Spanish Broadcasting System, Inc. made an ex parte presentation to Chairman Michael Powell, pursuant to the Commission's Public Notice in the above-referenced docket, released August 26, 2002.

There is transmittted herewith two (2) copies of a document associated with the oral ex parte presentation, and filed in accordance with Section 1.1206(b)(1) of the Commission's Rules.

Should any questions arise with regard to this matter, kindly communicate directly with this office.

Very truly yours,

KAYE SCHOLER, LLP

By: _____

Bruce A. Eisen

Enclosure

cc: Qualex International/Rm CY-B402

No. of Copies rec'd 071
List ABCDEF

UNIVISION + NBC

Monopolistic Control of U.S. Hispanic Media & Entertainment

UNIVISION  **ENTRAVISION**

 **CLEAR CHANNEL** 

FC Federal
Communications
Commission

CHAIRMAN MICHAEL K. POWELL
JANUARY, 2003

UNIVISION + NBC

**The Commission Should
Oppose the Merger**

WEIGHING THE PUBLIC INTEREST

**HISTORICAL
VIEWPOINT**

**PROSPECTIVE
VIEWPOINT**

UNIVISION



**We will show conclusively that this merger
DOES NOT serve the public interest, convenience and necessity**

UNIVISION + Public Interest Conflicts

fact
HISTORICALLY



- Have intentionally lied to the FCC, flagrantly violated ownership limits and conspired to control U.S. Hispanic Radio



- Have misrepresented Univision's de facto control of Entravision and conspired to control U.S. Hispanic TV

PROSPECTIVELY



- Harms consumers (listeners, viewers, advertisers, shareholders, competitors)
- Elimination of a viable competitor
- Monopolistic market share/concentration
- Elimination of competitive playing field
- Reinforces existing barriers to entry

Forever Forecloses Public Interest Standard for U.S. Hispanic Market

UNIVISION + Resultant Control of U.S. Hispanic Media

Univision stations

Telefutura stations 

Cable



Entravision stations 

Radio



Internet

UNIVISION.COM



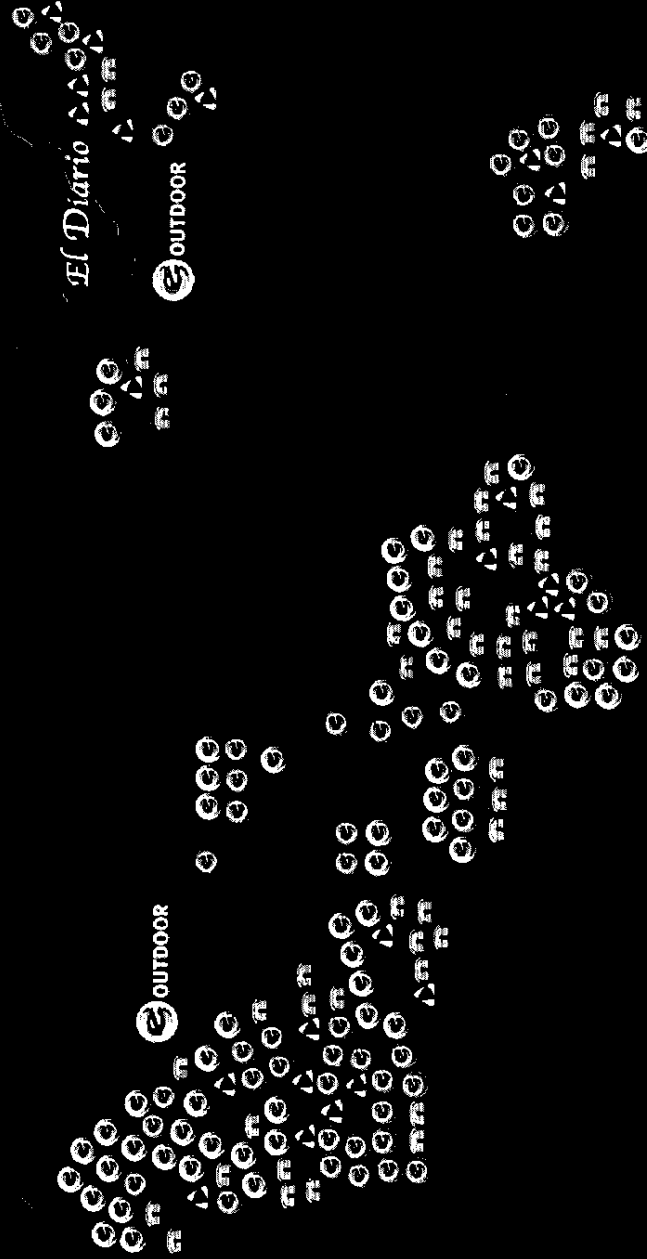
Billboards



Newspaper

El Diario

Records



One individual will control U.S. Hispanic media,
news, information and entertainment



Total Hispanic Broadcast Revenues

(amount in Millions)

TOP 10 MARKETS - STARTING POINT*

<u>Market</u>	<u>Total TV/Radio</u>	<u>Univision + HBC</u>	<u>% of Total</u>
Los Angeles	\$303	\$219	72%
Miami	171	95	56%
New York	122	59	48%
Houston	84	68	81%
Chicago	73	50	68%
San Francisco	64	52	82%
Dallas	62	45	71%
San Antonio	42	34	81%
San Diego	26	23	86%
El Paso	23	22	96%
Total	\$970	\$666	69%

* Excludes Telefutura and Cross Platform selling efforts
Source 2002 BIA Financial Network

UNIVISION  **ENTRAVISION**

 **CLEAR CHANNEL** 

Parallel Paths to Control U.S. Hispanic Media & Entertainment

UNIVISION+ Sham Checklist

FCC SHAM FILINGS MARKETPLACE REALITIES

Clear Channel is a passive investor does not control HBC	<p>Clear Channel created HBC</p> <p>Clear Channel funded HBC</p> <p>Clear Channel assisted/directed HBC</p> <p>Clear Channel "dealt" HBC to Univision – Bel Air, CA May 2002</p> <p>Clear Channel illegally tried to derail HBC competitor SBS</p>
Clear Channel has no "non-voting" stock in HBC	<p>Clear Channel's 26% "non-voting" HBC stake is actually much more determinative than if 26% were actually voting:</p> <p>HBC cannot make a single major corporate act without Clear Channel approval (negative control)</p>
Clear Channel has no HBC board representation	<p>To this day, HBC board has directors originally named by Clear Channel prior to adoption of "non-voting" scam</p>
Clear Channel has character qualifications befitting an FCC licensee	

UNIVISION+ Sham Checklist

FCC SHAM FILINGS MARKETPLACE REALITIES

~~Clear Channel
is a passive investor
does not control HBC~~

Clear Channel created HBC
Clear Channel funded HBC
Clear Channel assisted/directed HBC

~~Clear Channel has no
"non-binding" stock purchase~~

~~Clear Channel has no
HBC board representation~~

~~Clear Channel has no character
qualifications befitting
an FCC licensee~~



UNIVISION+ Sham Checklist

FCC SHAM FILINGS MARKETPLACE REALITIES

<p>Clear Channel is a passive investor does not control HBC</p>	<p>Clear Channel created HBC Clear Channel funded HBC Clear Channel assisted/directed HBC Clear Channel HBC to Univision - Bel Air, CA May 2002 Clear Channel tried to derail HBC competitor SBS</p>
<p>Clear Channel has no "non-binding" statement HBC</p>	<p>92.7 Party! Welcome to THE Bay Good Luck! FROM THE STAFF to WELD 94.9 THE BAY AREA'S ONLY PARTY STATION H You'll need H.I.V.</p>
<p>Clear Channel has no HBC board representation</p>	<p>That Boy in 2002</p>
<p>Clear Channel has no character qualifications holding an FCC license</p>	<p>Wednesdays, June 5th Tickets on sale at all Ticketmaster and at select sites. See local listings or www.ticketmaster.com</p>

UNIVISION+ Sham Checklist

FCC SHAM FILINGS

MARKETPLACE REALITIES

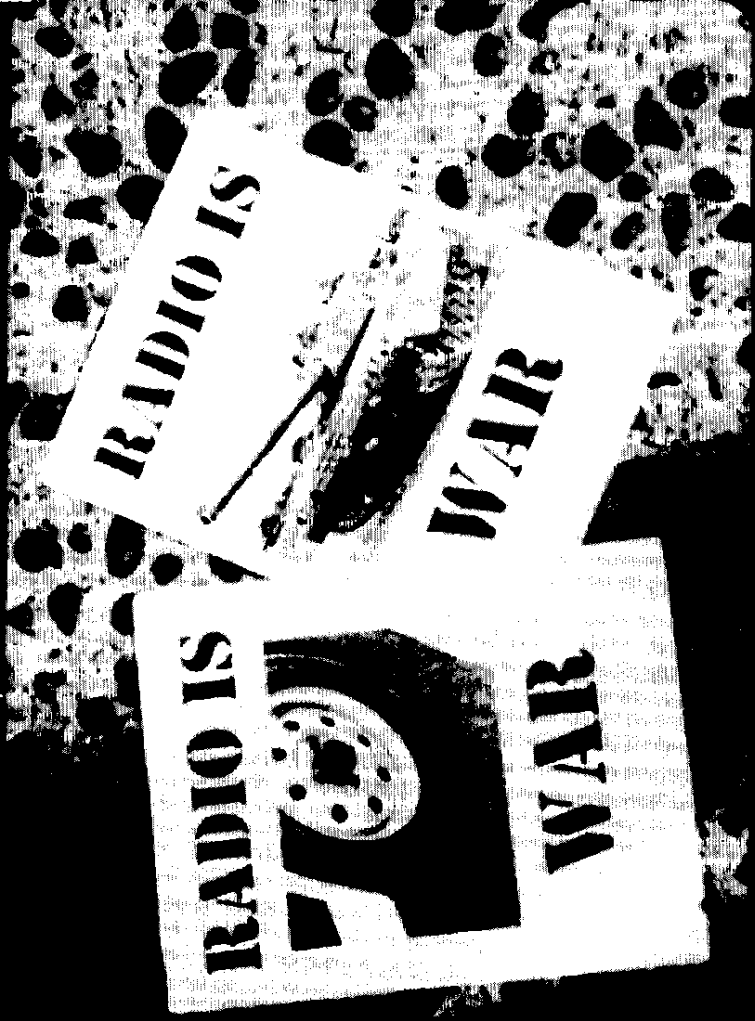
~~Clear Channel~~
is a passive investor for
does not control HBC

~~Clear Channel has no~~
"non-voting" stock in HBC

~~Clear Channel has no~~
HBC board representation

~~Clear Channel has character~~
qualifications holding
an FCC license

Clear Channel created HBC
Clear Channel funded HBC
Clear Channel assisted/directed HBC



UNIVISION+ Sham Checklist

FCC SHAM FILINGS

MARKETPLACE REALITIES

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an FCC licensee

Clear Channel created HBC
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Clear Channel assisted/directed HBC

RADIO
WIRE

UNIVISION + Sham Checklist

FCC SHAM FILINGS MARKETPLACE REALITIES

Clear Channel is a passive investor does not control HBC	Clear Channel created HBC Clear Channel funded HBC Clear Channel assisted/directed HBC
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UNIVISION+ Sham Checklist

FCC SHAM FILINGS

MARKETPLACE REALITIES

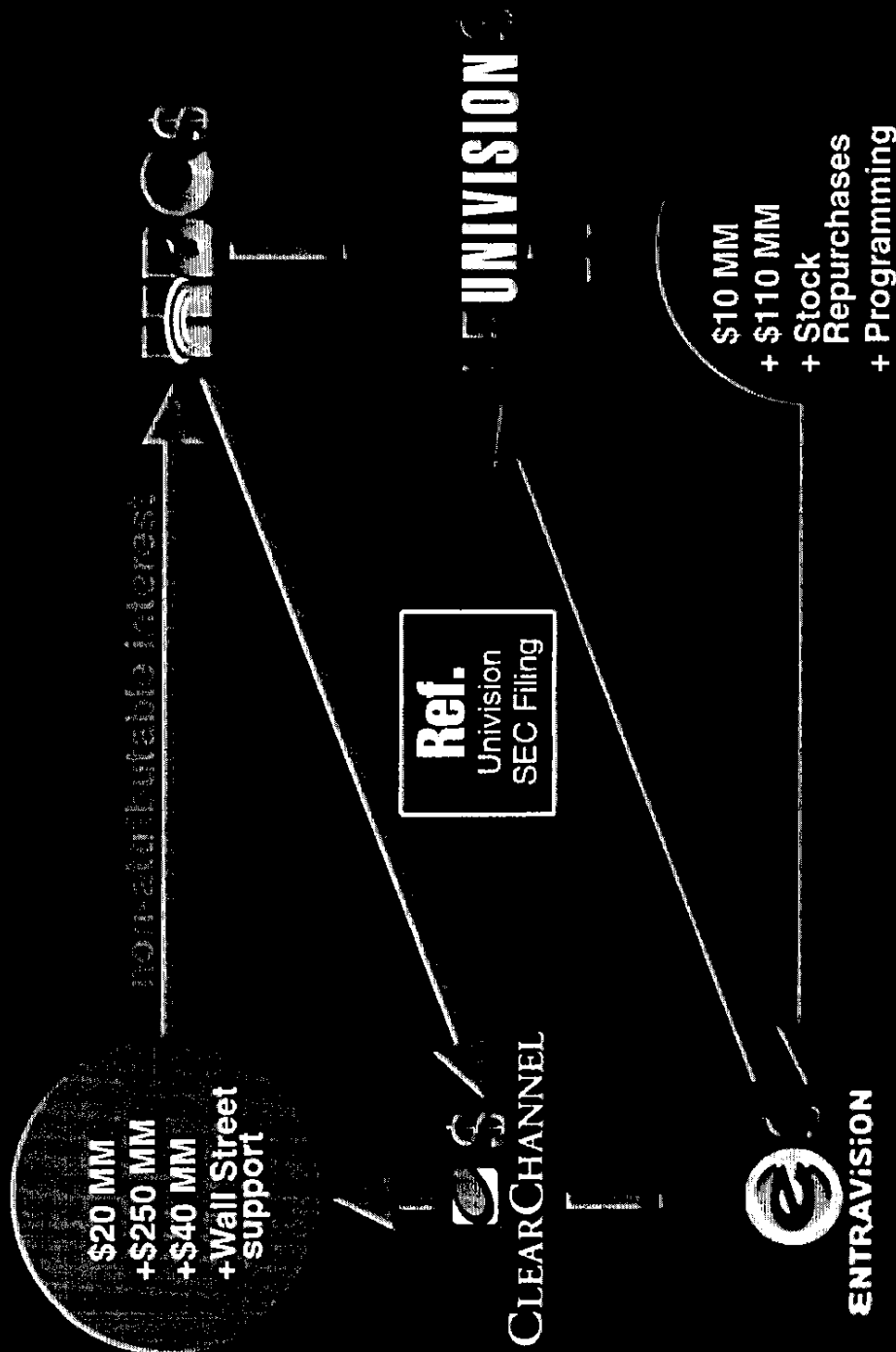
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<p>Clear Channel has character qualifications being an FCC licensee</p>	<div data-bbox="840 1169 1181 1395" data-label="Image"> </div> <div data-bbox="1223 1169 1564 1395" data-label="Image"> </div> <div data-bbox="1606 1169 1776 1395" data-label="Image"> </div>

UNIVISION+ Sham Checklist

FCC SHAM FILINGS MARKETPLACE REALITIES

Univision does not control Entravision	Univision created Entravision Univision funded Entravision Univision repurchased Entravision shares in open market Univision controls programming = lifeblood of Entravision
Univision and Entravision are "Integrated" competitive entities	Univision blocked Entravision competitor from acquiring TV stations in Tampa, Orlando and Washington, D.C.
Univision is not involved in Entravision's operations	Univision blocked competitor Telemundo from advertising on Entravision radio stations in Denver
Univision is not a monopolist	Univision denied access to its TV network to all internet portals in order to provide exclusivity to Univision.com
Univision has proposed non-voting stock and removal of directors from Entravision board	Univision retains 31% ownership Univision retains programming lifeblood Univision non-voting sham = Clear Channel non-voting sham

UNIVISION + Conspiratorial Control of U.S. Hispanic Media

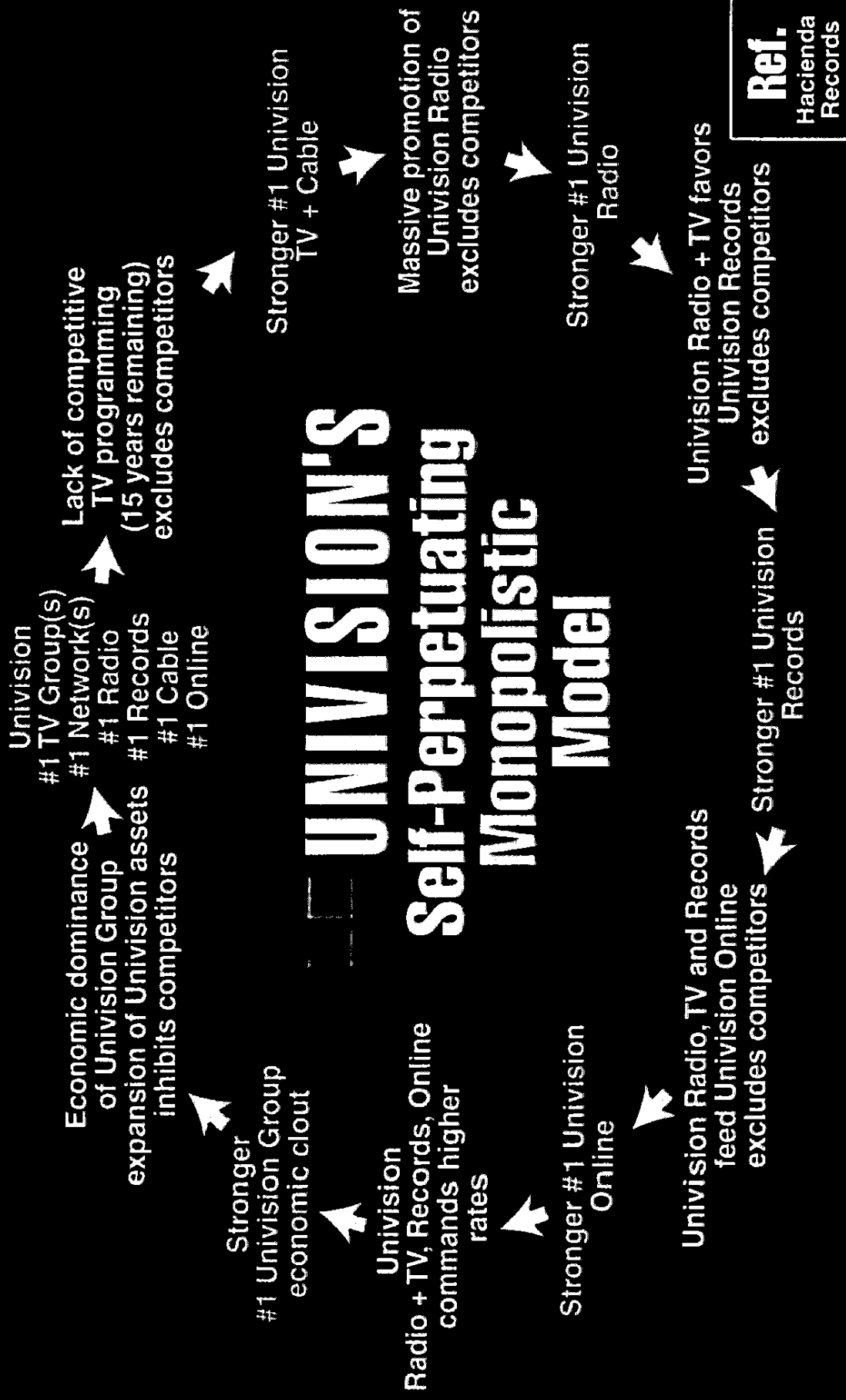


— Clear Channel Dollars — Univision Dollars

UNIVERSITY



Elimination of Competitive Playing Field



Ref.
Hacienda
Records

Reinforces Marketplace Barriers to Entry

UNIVISION+RBC

Reinforces Barriers to Entry

MARKETPLACE ENTRY

Availability
of
stations

Existing Barriers



UNIVISION+RSC

Reinforces Barriers to Entry

MARKETPLACE ENTRY

Access
to
capital

Availability
of
stations

Existing Barriers



UNIVISION+RBC

Reinforces Barriers to Entry

MARKET ACCESS ENTRY

Unavailability
of
UNIVISION
as
promotional
vehicle

UNIVISION
as
competitor

UNIVISION
as
bidder

Ref.

Dan Mason
Correspondence

Access
to
capital

Availability
of
stations

Existing Barriers



UNIVISION

Reinforced Barriers

ACCESS DENIED



Monopolistic Strategy Separate Market Control Paradigm

Andy Hobson
EVP, Univision

"During the first six months of 2002, Univision captured more than **95%** of the growth in advertising on Spanish-language television in the markets in which we operate."

"Since we still expect to capture substantially **ALL OF THE GROWTH** in spending in the 2nd half of the year, we expect our television revenues to grow between 17 1/2 - 20% for the year."

"New and expanded **exclusive** long-term programming agreements for our Univision, Telefutura and Galavision networks with the world's leading Spanish-language producers including **Mexico's** Televisa, **Venezuela's** Venevision and RCTV and **Colombia's** RCN."

Ray Rodriguez

Pres. & COO, Univision Network

"The acquisition (of HBC) will create the **premier broadcasting, marketing and entertainment** company serving the nation's 35 Million Hispanics."

"With the leading Spanish-language radio network we will have an unprecedented opportunity to **cross-promote** and cross-sell **our** products including **shows, music, artists** and other features."

"To sum up, we've taken significant steps this quarter to **materially extend** Univision's position as the most comprehensive Spanish-language multimedia company in the United States with **leading market share** in **each** of our business lines."

UNIVISION+



Monopolistic Strategy Separate Market Control Paradigm

Bob Cahill
Vice Chairman, Univision

"Cross-promotional opportunities afforded by a combination of radio and television will (attract increasing amounts of advertising dollars)... as will the ability to introduce new advertisers to Hispanic media through the less costly medium of radio and, then, upon proof of success, to move these advertisers to Hispanic television as well."

Univision Defines a Separate Hispanic Radio & TV Market

UNIVISION + 

**Monopolistic Strategy
Separate Market Control Paradigm**

Univision Defines A Separate Market

- Separate Market (Spanish Radio and TV)
- Separate Audience (35 Million Hispanics)
- Separate Advertisers (Vast Proportion Exclusive to Hispanic Media)
- Separate Population Growth Rate (7X the General Market)
- Separate Dollars (Spanish-language vs. General Market)
- Separate (Exclusive) Programming Sources (Latin America vs. Domestic)
- Separate (Proprietary) Products (Hispanic Shows, Music, Artists)
- Separate Pricing "Funneling" Mechanism (Using Radio as "Loss Leader")

Ref.
Arbitron
Data

Ref.
Advertising
Agencies

Separate Market Control Paradigm

UNIVISION + 

**Monopolistic Strategy
Separate Market Control Paradigm**

What Will the Univision Paradigm Mean for Competition?

~~Radio vs. Radio~~

~~Radio vs. TV~~

~~TV vs. TV~~

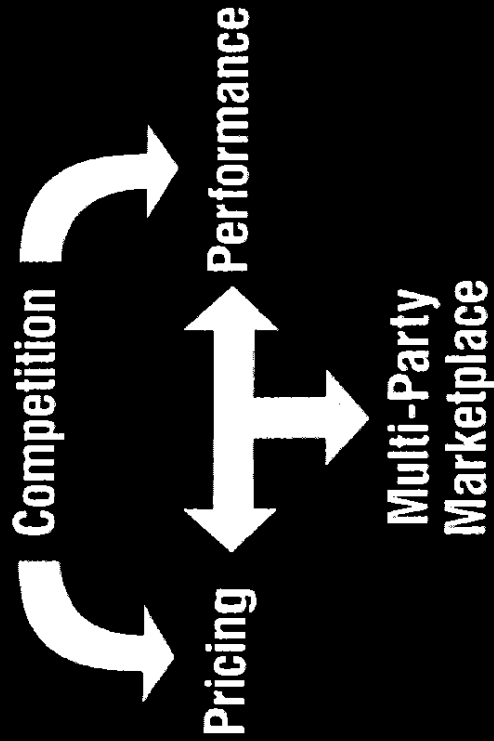
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AHAA
Correspondence

**The Univision Paradigm Destroys Competitive Model
and Harms Consumers**

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Monopolistic Strategy
Separate Market Control Paradigm

Competitive Model



Separate Market Control Paradigm

UNIVISION

